

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEO M. ABBY,

Petitioner,

Case No. 08-15333

Honorable David M. Lawson

v.

JOHN PRELESNIK,

Respondent.

ORDER GRANTING PERMISSION TO PROCEED *IN FORMA*
PAUPERIS ON APPEAL

This matter is before the Court on the notice of the petitioner's appeal of the Court's entry of judgment on the petitioner-appellant's petition for a writ of habeas corpus under 28 U.S.C. § 2254.

The docket indicates that the petitioner paid the \$5 filing fee when he filed his petition in this Court. *See* 28 U.S.C. § 1914. Therefore, the petitioner is not automatically authorized to appeal *in forma pauperis* under Federal Rule of Appellate Procedure 24(a)(3) and must show that he qualifies for such status. Because the "good faith" requirement of 28 U.S.C. § 1915(a)(3) does not apply to habeas petitions, *Kincade v. Sparkman*, 117 F.3d 949, 951-52 (6th Cir. 1997), this Court may authorize the prosecution of any appeal without the prepayment of fees by a prisoner who shows that he is unable to pay such fees. 28 U.S.C. § 1915(a)(1); Fed. R. App. P. 24(a)(1). The Court finds the defendant qualifies for *in forma pauperis* status. Therefore, the petitioner's request will be granted.

Accordingly, it is **ORDERED** that the petitioner-appellant may proceed *in forma pauperis* on appeal.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: April 16, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 16, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL